ENROLLED SENATE
BILL NO. 650

By: Cain and Monson of the Senate

and

Seikel and Boyd (Laura) of the House

An Act relating to poor persons, public health and safety and state government; amending Section 3, Chapter 336, O.S.L. 1993 (56 O.S. Supp. 1993, Section 1010.3), Sections 5, 6, 7 and 9, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1993, Sections 5007, 5008, 5009 and 5011), and 74 O.S. 1991, Section 18 1, as amended by Section 13, Chapter 10, O.S.L. 1993 (74 O.S. Supp. 1993, Section 18 1), which relate to the Oklahoma Medicaid Health Care Options Act, the Oklahoma Healthcare Authority Act and collection of certain fees from certain agencies; establishing certain priority; requiring certain plan be offered for certain areas; clarifying language; modifying method of appointment of the Oklahoma Health Care Authority Board and administrator; clarifying references; modifying method of appointment and qualifications of members of the Oklahoma Health Care Authority Board; deleting obsolete language; designating the administrator as chief executive officer of the Oklahoma Health Care Authority; updating grammar and syntax; requiring highest priority be given to development of certain plans; requiring emphasis on preventative care; authorizing the Office of the Attorney General to levy and collect certain fees from the Oklahoma Health Care Authority; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 336, O.S.L. 1993 (56 O.S. Supp. 1993, Section 1010.3), is amended to read as follows:

Section 1010.3 A. 1. There is hereby established the Oklahoma Medicaid Healthcare Options System. On and after July 1, 1993, there shall be a state entity designated by law to assume responsibility for preparations for converting the present system of delivery of the Oklahoma Medicaid Program to a managed care system. In the event such state entity is not designated by law for such purpose, the Commission for Human Services or the Department of Human Services shall assume such responsibility.

2. The System shall be administered by the designated state Medicaid agency and consist of a statewide system of managed care contracts with participating providers for the provision of

hospitalization, eye care, dental care and medical care coverage to members and the administration, supervision, monitoring and evaluation of such contracts. The contracts for the managed care health plans shall be awarded on a competitive bid basis.

3. The System shall use both full and partial capitation models to service the medical needs of eligible persons, provided that highest priority shall be given to the development of prepaid capitated health plans. Provided further, that prepaid capitated health plans shall be the only managed care model offered in the ~~metropolitan statistical~~ high density population areas of Oklahoma City and Tulsa.

B. On or before July 1, 1993, the Oklahoma Medicaid Healthcare Options System shall initiate a process to provide for the orderly transition of the operation of the Oklahoma Medicaid Program to a managed care program within the System.

C. The System shall develop managed care plans for all persons eligible for Title XIX of the federal Social Security Act, 42 U.S.C., Section 1396 et seq., as follows:

1. On or before July 1, 1995, managed care plans shall be developed for a minimum of fifty percent (50%) of the participants in the Aid to Families with Dependent Children (AFDC) program and participants categorized as noninstitutionalized medically needy. On or before July 1, 1996, all participants in the Aid to Families with Dependent Children (AFDC) program and participants categorized as noninstitutionalized medically needy shall be enrolled in a managed care plan;

2. On or before July 1, 1997, managed care plans shall be developed for all participants categorized as aged, blind or disabled; and

3. On or before July 1, 1999, managed care plans shall be developed for all participants who are institutionalized or who are seriously and persistently mentally ill.

D. The ~~Department~~ designated state Medicaid agency shall apply for any and all federal Medicaid waivers necessary to implement the System. The application made pursuant to this subsection shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may only be used ~~only~~ for ~~the~~ eye care, dental care, medical care and related services for eligible persons.

E. ~~From and after~~ Effective July 1, 1995, except as specifically required by federal law, the System shall only be responsible for providing care on or after the date that ~~the~~ a person has been determined eligible for the System, and shall only be responsible for reimbursing the cost of care rendered on or after the date that the person was determined eligible for the System.

SECTION 2. AMENDATORY Section 5, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1993, Section 5007), is amended to read as follows:

Section 5007. A. There is hereby created the Oklahoma Health Care Authority Board. ~~The Health Care Authority~~ On and after the effective date of this act, as the terms of the initially appointed members expire, the Board shall be composed of ~~seven (7) members appointed by the Governor:~~

~~1. Six members who shall serve four-year terms of office shall be appointed as follows:~~

~~a. two persons shall be appointed by the Governor from a list of nominees submitted by the President Pro Tempore of the Senate; provided, one appointee shall serve an initial term of office of two (2) years and one appointee shall serve an initial term of office of four (4) years, as designated by the Governor,~~

~~b. two persons shall be appointed by the Governor from a list of nominees submitted by the Speaker of the House of Representatives; provided, one appointee shall serve an initial term of office of one (1) year and one appointee shall serve an initial term of office of three (3) years, as designated by the Governor, and~~

~~c. the Governor shall appoint two members; provided, one appointee shall serve an initial term of office of three (3) years and one appointee shall serve an initial term of office of four (4) years, as determined by the Governor.~~

~~Members appointed pursuant to this paragraph shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. In making the appointments, the Governor shall also give consideration to urban, rural, gender and minority representation; and~~

~~2. The administrator of the Authority.~~

~~B. 1. The~~ seven appointed members who shall serve for terms of four (4) years and shall be appointed as follows:

1. Two members shall be appointed by the President Pro Tempore of the Senate;

2. Two members shall be appointed by the Speaker of the House of Representatives; and

3. Three members shall be appointed by the Governor; provided, one of the members appointed by the Governor shall be a consumer who shall have no financial or professional interest in medical care, health care services, health care delivery, health care finance, health insurance or managed health care.

B. Members appointed pursuant to this paragraph, with the exception of the consumer member, shall include persons having experience in medical care, health care services, health care delivery, health care finance, health insurance and managed health care. In making the appointments, the appointing authority shall also give consideration to urban, rural, gender and minority representation.

C. On and after the effective date of this act, any subsequently appointed administrator of the Authority shall be appointed by the ~~Governor, with the advice and consent of the Senate, from a list of not less than three nominees submitted by the members appointed pursuant to paragraph 1 of this subsection~~ Board. The administrator shall have the training and experience necessary for the administration of the Authority, as determined by the Board, including, but not limited to, prior experience in the administration of managed health care~~, necessary for the administration of the Authority, as determined by the Board~~. The administrator shall serve ~~no fixed term and may be removed only for cause~~ at the pleasure of the Board.

~~2. Immediately after their appointment, the members appointed pursuant to paragraph 1 of subsection A of this section shall conduct a search and select not less than three nominees to submit to the Governor for appointment as administrator of the Authority. The search for suitable nominees shall not be confined to this state.~~

~~C.~~ D. The Board shall have the power and duty to:

1. Establish the policies of the Oklahoma Health Care Authority;

2. Adopt and promulgate rules as necessary and appropriate to carry out the duties and responsibilities of the Authority. The Board shall be the rulemaking body for the Authority; and

3. Adopt, publish and submit by January 1 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives appropriate administrative policies and the business plan for that year. All actions governed by said administrative policies and annual business plan shall be examined annually in an independent audit.

~~D.~~ E. 1. A vacancy in a position shall be filled in the same manner as ~~the original appointment~~ provided in subsection A of this section.

2. A majority of the members of the Board shall constitute a quorum for the transaction of business and for taking any official action. Official action of the Board must have a favorable vote by a majority of the members present.

3. Members appointed pursuant to ~~paragraph 1 of~~ subsection A of this section shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

~~E.~~ F. The Board and the Authority shall act in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, and the Administrative Procedures Act, Section 250.1 et seq. of Title 75 of the Oklahoma Statutes.

~~F. The Cabinet Secretary for Health and Human Services shall provide the Board with meeting space and staff support and assistance until such time as the initial administrator for the Authority is appointed, appropriate arrangements for offices are completed, and necessary staff for the Authority are employed.~~

SECTION 3. AMENDATORY Section 6, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1993, Section 5008), is amended to read as follows:

Section 5008. A. The administrator of the Oklahoma Health Care Authority shall be the ~~Chairman of the Health Care Authority Board and shall be the~~ chief executive officer of the Authority and shall act for the Authority in all matters except as may be otherwise provided by law. The powers and duties of the Administrator shall include, but not be limited to:

1. Supervision of the activities of the Authority;

2. Formulation and recommendation of rules for approval or rejection by the Oklahoma Health Care Authority Board and enforcement of rules and standards promulgated by the Board;

3. Preparation of the plans, reports and proposals required by the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title, other reports as necessary and appropriate, and an annual budget for the review and approval of the Board; and

4. Employment of such staff as may be necessary to perform the duties of the Authority.

B. The administrator shall establish a contract bidding process ~~that encourages~~ which:

1. Encourages competition among entities contracting with the Authority for state-purchased and state-subsidized health care~~, is timely to~~;

2. Coincides with the state budgetary process~~,~~; and ~~sets~~

3. Specifies conditions for awarding contracts to any insuring entity.

C. The administrator may appoint advisory committees as necessary to assist the Authority with the performance of its duties or to provide the Authority with expertise in technical matters.

D. The administrator shall ~~appoint~~ convene a committee composed of representatives of the State Department of Health, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, the Office of the Insurance Commissioner, the State Insurance Fund, the Oklahoma Basic Health Benefits Board, the Department of Veterans Affairs, the Physicians Manpower Training Commission and other appropriate state agencies to assist with the preparation of a proposed plan for the transfer of other entities to the ~~authority~~ Authority and continued sharing of data and resources by these entities.

1. Each agency on the committee shall designate an individual to serve as its representative on the committee.

2. The ~~proposal~~ plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, ~~1994~~ 1995.

SECTION 4. AMENDATORY Section 7, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1993, Section 5009), is amended to read as follows:

Section 5009. A. On and after July 1, 1993, the Oklahoma Health Care Authority shall be the state entity designated by law to assume the responsibilities for the preparation and development for converting the present delivery of the ~~state's~~ Oklahoma Medicaid ~~program~~ Program to a managed care system. The system shall emphasize ~~managed~~:

1. Managed care principles, including a capitated, prepaid system with either full or partial capitation, ~~the use~~ provided that highest priority shall be given to development of prepaid capitated health plans;

2. Use of primary care physicians to establish the appropriate type of medical care a Medicaid recipient should receive; and ~~an emphasis on preventative~~

3. Preventative care.

B. On and after January 1, 1995, the Authority shall be the designated state agency for the administration of the ~~State~~ Oklahoma Medicaid Program.

1. The Authority shall contract with the Department of Human Services for the determination of Medicaid eligibility and other administrative or operational functions related to the ~~State~~ Oklahoma Medicaid Program as necessary and appropriate.

2. To the extent possible and appropriate, upon the transfer of the administration of the ~~state~~ Oklahoma Medicaid ~~program~~ Program, the Authority shall employ the personnel of the Medical Services Division of the Department of Human Services.

3. The Department of Human Services and the Authority shall jointly prepare a transition plan for the transfer of the administration of the ~~state~~ Oklahoma Medicaid ~~program~~ Program to the Authority. The transition plan shall include ~~provision~~ provisions for the retraining and reassignment of employees of the Department of Human Services affected by said transfer. The transition plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, ~~1994~~ 1995.

SECTION 5. AMENDATORY Section 9, Chapter 332, O.S.L. 1993 (63 O.S. Supp. 1993, Section 5011), is amended to read as follows:

Section 5011. A. ~~On and after~~ Effective July 1, 1994, the duties, powers and responsibilities of the Oklahoma State Employees Benefits Council that relate to the purchase of health care benefits shall be made under the direction and with the approval of the Oklahoma Health Care Authority. ~~The Council, the Authority and the~~

~~State and Education Employees Group Insurance Board shall jointly prepare a plan outlining the administrative structure and division of responsibilities for the functions of each entity. Said plan shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 1, 1994.~~

B. The Authority shall develop state and education employee health care benefit plans as provided by this section. In developing these plans, the Authority shall consider the following elements:

1. Methods of maximizing cost containment while ensuring access to quality health care;

2. Development of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems and prospective payment methods;

3. Utilization review procedures including, but not limited to~~,~~:

a. prior authorization of services,

b. hospital inpatient length of stay ~~review~~ reviews,

c. requirements for use of outpatient surgeries ~~and~~,

d. requirements for second opinions for surgeries,

e. review of invoices or claims submitted by health services providers, and

f. performance ~~audit~~ audits of providers; and

4. Effective coordination of health care benefits.

C. ~~Beginning in~~ Effective January ~~1995~~, 1996, and each January thereafter, the administrator of the Oklahoma Health Care Authority shall publish and distribute to each school district in this state that so requests a description of health care benefit plans available through the Oklahoma Health Care Authority and the estimated cost of such plans if school district employees were enrolled.

D. The Authority shall:

1. ~~Establish a requirement for review of~~ Require utilization review and financial data review from participating entities ~~contracting~~ which contract with the Authority for state-purchased and state-subsidized health care on a quarterly basis;

2. Centralize ~~the~~ enrollment files for all persons covered by state-purchased and state-subsidized health care benefit plans;

3. Develop enrollment demographics on a plan-specific basis; and

4. Establish methods for collecting, analyzing, and disseminating ~~to covered individuals~~ information on the cost and quality of services rendered by health care providers to all persons covered by such plans.

E. The administrator may require that any entity that contracts for the delivery of services pursuant to a state-purchased or state-subsidized health care benefit plan ~~or benefits~~ administered by the Authority shall provide to said administrator all information deemed necessary to fulfill the administrator's duties as set forth in the Oklahoma Health Care Authority Act, Section 5003 et seq. of this title. All ~~claims~~ data related to claims and produced pursuant to the Oklahoma Health Care Authority Act shall be the property of ~~the~~ this state.

F. Any savings realized ~~as a result of the provisions of~~ pursuant to this section and Section ~~7 of the Oklahoma Health Care Authority Act~~ 5009 of this title shall not be used to increase benefits unless such use is authorized by law.

G. On and after July 1, ~~1994~~ 1995, the Oklahoma Basic Health Benefits Board shall receive any ~~monies~~ funds appropriated for ~~the~~ operations or duties imposed ~~upon it~~ by law upon the Oklahoma Basic Health Benefits Board from the Oklahoma Health Care Authority.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 18 l, as amended by Section 13, Chapter 10, O.S.L. 1993 (74 O.S. Supp. 1993, Section 18 l), is amended to read as follows:

Section 18 1. The Office of the Attorney General may levy and collect a reasonable fee from the Department of Consumer Credit, the Office of Personnel Management, the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Development Finance Authority, the Oklahoma Industrial Finance Authority, the Oklahoma Student Loan Authority, the Department of Mental Health and Substance Abuse Services, the Oklahoma Health Care Authority, the Board of Regents of Oklahoma Colleges, the Oklahoma State Regents for Higher Education, the State Department of Vocational and Technical Education, the Oklahoma Department of Veterans Affairs, the State Fire Marshal Commission, the Commission on Children and Youth, the State Department of Agriculture, the Oklahoma Human Rights Commission, the Oklahoma Law Enforcement Retirement System, the Oklahoma Police Pension and Retirement System, and the Oklahoma Tourism and Recreation Department for the purpose of providing legal services requested by such entities. All fees collected in accordance with the provisions of this section shall be deposited in the Attorney General's Revolving Fund created pursuant to Section 20 of this title.

SECTION 7. This act shall become effective July 1, 1994.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 23rd day of May, 1994.

President of the Senate

Passed the House of Representatives the 25th day of May, 1994.

Speaker of the House of Representatives